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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Implementation of )  
Sections 3(n) and 332 of )  
the Communications Act )  
 )  
Regulatory Treatment )  
of Mobile Services )

GN Docket No. 93-252

To: The Commission

JOINT COMMENTS  
OF THE  
INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC.  
AND  
COUNCIL OF INDEPENDENT COMMUNICATION SUPPLIERS

The Industrial Telecommunications Association, Inc. ("ITA") and the Council of Independent Communication Suppliers ("CICS"),<sup>1</sup> pursuant to the Federal Communications Commission's Further Notice of Proposed Rule Making in the above-referenced matter, hereby respectfully submits these Comments responsive to the Commission's proposals.<sup>2</sup>

I. PRELIMINARY STATEMENT

1. The Industrial Telecommunications Association, formerly the Special Industrial Radio Service Association, Inc., is a non-profit association organized under the laws of the District of

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<sup>1</sup> ITA and CICS are variously referred to in these Comments as "ITA/CICS" or "the Joint Commenters."

<sup>2</sup> Further Notice of Proposed Rule Making (FCC 94-100), GN Docket No. 93-252, adopted April 20, 1994, released May 20, 1994, (hereinafter "Further Notice").

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Columbia. ITA is the Commission's certified frequency coordinator for the Special Industrial Radio Service and the Industrial/Land Transportation 800/900 MHz frequency "pools." ITA also coordinates channels from the general access pool for those entities (a) eligible to become Industrial/Land Transportation licensees, (b) wishing to expand trunked systems, (c) consolidating conventional systems into a trunked system, and (d) seeking to establish conventional SMR systems. ITA coordinates in excess of 6,000 applications per year on behalf of applicants seeking Commission authority to operate radio stations on frequency assignments allocated to the Special Industrial Radio Service and the enumerated 800/900 MHz frequency "pools."

2. ITA enjoys the support of a membership that includes more than 9,000 licensed two-way land mobile radio communications users and the following trade associations:

- Alliance of Motion Picture and Television Producers
- American Mining Congress
- Associated Builders & Contractors, Inc.
- Florida Citrus Processors Association
- Florida Fruit & Vegetable Association
- National Aggregates Association
- National Agricultural Aviation Association
- National Food Processors Association
- National Propane Gas Association
- National Ready-Mixed Concrete Association
- National Utility Contractors Association
- New England Fuel Institute
- United States Telephone Association

3. The Council of Independent Communication Suppliers is an unincorporated association of entities engaged in serving the needs

of private radio eligibles, particularly those located in small and rural communities throughout the United States. CICS' membership is open to SMR operators, radio dealers, equipment suppliers, and consultants. CICS was formed to provide these entities a voice in the policy-making process governing use of the electromagnetic spectrum, especially spectrum allocated to the private land mobile radio services. CICS is an independent membership market council of the Industrial Telecommunications Association, Inc. ("ITA").

## II. COMMENTS

### A. Overall Approach to Conforming the Rules and Policies

4. The intent of the Further Notice is to identify and conform differences in technical and operational rules in Part 90 and Part 22. The Commission seeks to eliminate or modify rules that would otherwise lead to arbitrary and inconsistent treatment of substantially similar CMRS licensees.

5. ITA/CICS are supportive of the Commission's efforts in this regard. There is no question that the Commission should attempt to eliminate major discrepancies in the current rule provisions. From the perspective of ITA/CICS, it is relatively easy to conform operational rules such as construction periods, loading standards, permissible uses and station identification. It is considerably more difficult to conform technical rules such as

co-channel interference standards and limits on antenna heights and power levels. In some cases, there will not be a sufficient factual basis for making changes at this time.

6. The Joint Commenters foresee several difficulties in trying to conform all the rules at one time. First, the Commission may not be able to anticipate all of the consequences of introducing conformity and may, therefore, underestimate the complexity of making changes. Second, the Part 90 radio services that will be affected by the changes are not monolithic in nature; changes beneficial to one type of service provider may be injurious to others. Third, some of the reclassified Part 90 radio services are so radically different from typical CMRS services that it may be pointless to attempt to conform the technical and operational rules in any event. For all of these reasons, ITA/CICS urge the Commission to proceed cautiously as it considers changes in specific rules.<sup>3</sup>

**B. Suggested Guidelines for Conforming the Rules and Policies**

7. ITA/CICS believe there are certain principles that should guide the Commission as it proceeds to implement the changes

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<sup>3</sup> ITA and CICS have reviewed the draft version of the "block licensing concept" developed by NEXTEL to facilitate the licensing of wide-area ESMR systems in the 800 MHz band. NEXTEL's proposal represents an innovative scheme that deserves fair and deliberate consideration. At this point, the Joint Commenters reserve judgment on NEXTEL's approach, pending a comprehensive review of the final details of the plan.

proposed in the Further Notice. The principles that the Joint Commenters view as both important and relevant are as follows:

The FCC should seek to preserve the diversity of existing uses.

As the Further Notice makes clear, there is great diversity in the existing radio services. Half of the existing SMR licensees provide non-interconnected dispatch-oriented service.<sup>4</sup> More than 70% of all SMR mobile units are used for dispatch service.<sup>5</sup> There are a variety of other distinctions that can be drawn among the existing mobile service. As the Commission proceeds with the effort to conform its technical and operational rules, it must remain sensitive to the distinctions that exist. ITA/CICS urge the Commission to recognize that not all of the reclassified CMRS services will be able to pattern their operations after the large-scale wide-area CMRS providers.

The Commission should focus on changing those rules that can be changed easily and fairly.

In some cases, the Commission proposes to make radical changes in technical rules that have evolved gradually over a significant period of time. The co-channel interference

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<sup>4</sup> Further Notice, footnote 25.

<sup>5</sup> Further Notice, footnote 51.

standards for private systems is one such rule. Implementing significant changes in this rule may introduce considerable confusion. Such changes also run the risk of introducing co-channel interference that exceeds acceptable levels. ITA/CICS urge the Commission to consider carefully the potential consequences before it radically restructures existing rules.

The Commission should try to implement change without significant disruption to the existing services.

The traditional non-commercial, internal-use private radio systems are critical to the nation's economic and social welfare. These systems have developed in a relatively organized and orderly fashion. Licensees have adapted these systems to serve their unique needs. The Commission should be careful not to disturb these and other existing communications services.

There are limits to the extent to which existing technical rules can be changed (e.g., co-channel separation standards, antenna and power height limits).

The comments filed in the Commission's refarming proceeding, PR Docket No. 92-235, document the difficulty in trying to superimpose a new technical regime on existing systems. In that proceeding, the Commission proposed significantly restrictive limits on the height and power of existing systems. It will be difficult to implement radical technical changes on existing licensees without significant

and potentially adverse consequences.

There is a danger in "stirring the pot" too much.

ITA/CICS believe that, for simplicity and clarity in the regulatory process, the Commission should not address matters in the instant proceeding that are integrally related to the private land mobile refarming proceeding. If necessary for coherent policy making, the issues in the refarming proceeding should be resolved simultaneously with the matters raised in the Further Notice. On matters that are central to the refarming proceeding, the Commission should be guided by the comments generated in the course of that proceeding.

It will be difficult, and perhaps counterproductive, to try to strive for excessive levels of conformity. The Commission should not pursue symmetry merely for the sake of symmetry.

With respect to some radio services, implementing conformity in the technical and operational rules will not promote symmetry, no matter how carefully the Commission proceeds. As an example, considering the spectrum limitations at and narrowband channelization at 220-222 MHz, it is not realistic to expect a CMRS system at 220 MHz to parallel, in either scope or significance, large CMRS systems at 800 MHz. In some cases, the Commission will have to be content with making the rules as fair as possible for all licensees, without seeking to implement an unrealistic degree

of symmetry.

The Commission should seek to preserve a fair opportunity for the development of SMR systems at 900 MHz that are designed to serve users on a local level.

Not all commercial mobile systems in the 900 MHz band will be designed as wide-area, extended systems. There remains a role in the communications landscape for smaller systems that focus on providing a reliable service to users at the local level, as opposed to offering service on a regional or nationwide basis. As it considers the issues involved in the instant proceeding, the Commission should take steps to ensure that adequate spectrum remains available to accommodate the needs of these smaller systems.

Licensing on the basis of Commission-defined service areas is incompatible with the operation of individual internal-use systems.

In the course of designing rules to accommodate wide-area commercial systems, the Commission must be careful not to impose regulatory obstacles that will impede the development of internal-use systems at 800 and 900 MHz.<sup>6</sup> There remains a considerable and perpetual need for spectrum to serve the

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<sup>6</sup> On June 16, 1994, ITA established a new market council, the "Alliance of Private 800/900 MHz Licensees" (APEL), to represent the interests of large and small non-CMRS licensees in the 800 and 900 MHz bands. APEL was formed for the purpose of highlighting the needs and interests of non-CMRS licensees in these bands. APEL intends to file reply comments in this proceeding on July 11. In its reply comments, APEL will focus on concerns relating to the use of pre-defined licensing areas and related matters.

internal needs of large industrial, business and public safety entities. In general, when the Commission implements licensing procedures based on MTAs, BTAs, or similar concepts, it is adverse to the needs and interests of internal-use systems. Typically, these systems develop over areas that do not conform to pre-defined areas. ITA/CICS believe it is imperative that the Commission not adopt rules that will impede the licensing and development of internal-use systems. In particular, the Commission must remain sensitive to the implications of introducing pre-defined licensing or service areas on existing services, especially non-CMRS services.

When adopting a single application form for all mobile services, the Commission should provide explicit signals on the form to identify sections that do not apply to non-CMRS licensees.

There is some benefit in having a single application form for all mobile services. However, such a form makes it more difficult for traditional private radio licensees. A form that is geared to facilitate the licensing of commercial providers may be confusing to entities seeking to license internal-use systems. The Commission should make it as easy as possible for such applicants to complete the form. Explicit signals would help the process.

WHEREFORE, THE PREMISES CONSIDERED, the Industrial Telecommunications Association, Inc. and the Council of Independent Communication Suppliers respectfully submit these Comments and urge the Federal Communications Commission to act in accordance with the views expressed herein.

**INDUSTRIAL TELECOMMUNICATIONS  
ASSOCIATION, INC.**

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